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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,519	10/10/2001	Dhiren R. Thakker	421/32/2	7285

25297 7590 04/21/2004

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EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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09/974519

EXAMINER

ART UNIT	PAPER NUMBER
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3/20/04

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 1/5/04

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in the application.
Of the above, claim(s) 4-5, 7, 9-27 is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-3, 6, 8 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Applicant's election of intestinal epithelium in Paper No. 6/10/03 is acknowledged. Because applicant did not distinctly and specifically point out ~~the~~ *any* ~~supposed errors~~ in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al in view of Wissner et al '045.

Applicants stipulate that Wissner '045 teach synthesis of phosphocholines (page 17 lines 20-24). However, Wissner '045 further teaches orally administered phosphocholine derivatives (column 43 lines 29-55).

Applicants further stipulate alkylphosphocholines are known in the art as inhibitors of phospholipase C (page 18 lines 1-7).

Liu et al teach an alkyl phosphocholine for enhancement of Para cellular permeability to overcome the barrier to absorption of orally administered hydrophilic drugs posed by tight junctions in the intestinal epithelium.

It would have been obvious to one of ordinary skill to enhance permeability of tight Junctions in the intestinal epithelium with Alkyl phosphocholines for the beneficial effect of overcoming the barrier to absorption of orally administered hydrophilic drugs in view of Liu et al. As to the claimed oral administration, Wissner et al '045 teach oral

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delivery of such phosphocholine derivatives. As to the claimed property of inhibition of phospholipase C, applicants stipulate such is known in the art.

Applicants argue that Liu et al does not teach the inhibition of permeability by inhibition of phospholipase C.

However, applicants stipulate that it is known in the art that alkyl phosphocholines are known phospholipase C inhibitors. Therefore, one of ordinary skill would expect the correction demonstrated by applicants given Liu et al s' work.

No claims allowed.

Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.

Webman/tgd

March 23, 2004

EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500